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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,672	12/04/2003	Biplav Srivastava	JP920030196US1	8927
<div>7590 Frederick W. Gibb, III McGinn &amp; Gibb, PLLC Suite 304 2568-A Riva Road Annapolis, MD 21401</div>				
03/04/2009				
EXAMINER				
TRUONG, CAMQUY				
ART UNIT		PAPER NUMBER		
2195				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/727,672

**Applicant(s)**

SRIVASTAVA ET AL.

**Examiner**

CAMQUY TRUONG

**Art Unit**

2195

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-18 are presented for examination.

#### ***Claim Objections***

2. Claim 7 defines a program product disposed on computer-readable portable storage medium. Without claiming the program product executed by associated computer hardware. Therefore, claim 7 is potential 101 problems because they recited claims that comprise software per se embodiment.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-5, 7-12, 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al. (U.S. 6,336,138) in view of Mayer (U.S. 7,003,562).**
5. As to claim 1, Caswell teaches the invention substantially as claimed including: a method for composing network accessible services said method comprising the steps of:

storing an abstract plan (memory for storing the service model template, col. 4, lines 32-33) that specifies a set of logical processes that identify a type of network accessible service to be used (the template includes a specification of elements involved in providing the service, such as servers and network links ..., col. 9, lines 2-11; col. 5, lines 45-62) and an order of use of said network accessible service ( specifies the types of service, col. 9, lines 8-9; col. 16, lines 34-37) wherein each service is assigned to said abstract plan in a predetermined manner (col. 5, lines 45-62; col. 3, lines 39-42; col. 4, lines 6-31);

determining an instantiated plan ( generating a service model instance 40, col. 7, lines 36-38) that specifies at least one particular network accessible service that can perform each one of the logical processes of the abstract plan (col. 7, lines 60-65; col.16, lines 50-62; col. 18, lines 44-54); and

evaluating said instantiated plan of predetermined constraints relating to subsequent execution of the determined network accessible services of said instantiated plan (extract information from the service model instance to merge test information relevant to particular elements with default algorithm descriptions in order to generate a measurement agent specification for the ISP of interest, col. 17, lines 6-10; col. 8, lines 44-60; col. 15, line 55 – col. 16, line 26).

6. Caswell does not explicitly teach evaluating said instantiated plan for violations of predetermined constraints. However, Mayer teaches evaluating said instantiated plan

for violations of predetermined constraints (evaluating model base on the policy, col. 2, lines 36-56).

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Caswell by incorporating the teaching of evaluating said instantiated plan for violations of predetermined constraints as taught by Mayer because this would improve the speed and quality of implementing the required changes in the network configuration to support evolving business and corporate functions.

8. As to claim 2, Caswell teaches the step of rejecting an instantiated plan if the evaluated instantiated plan violates at least one of the predetermined constraints (col. 8, lines 44-60).

9. As to claim 3, Caswell teaches comprising determining a set of parameters concerning the instantiated plan, and an approximate range of each of the parameters (col. 7, lines 60-65).

10. As to claim 4, Caswell teaches composing an alternative abstract plan if the evaluated instantiated plan violates at least one of the predetermined constraints (col. 4, lines 47-67).

11. As to claim 5, Caswell teaches the abstract plan specifies an ordered set of logical processes (specifies the types of service, col. 9, lines 8-9; col. 16, lines 34-37).
12. As to claim 7, it is rejected for the same reason as claim 1.
13. As to claim 8, it is rejected for the same reason as claim 1.
14. As to claims 9 and 14, they are rejected for the same reason as claim 2.
15. As to claims 10 and 15, they are rejected for the same reason as claim 3.
16. As to claims 11 and 16, they are rejected for the same reason as claim 4.
16. As to claims 12 and 17, they are rejected for the same reason as claim 5.
17. **Claims 6, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al. (U.S. 6,336,138) in view of Mayer (U.S. 7,003,562), as applied to claims 1, 7 and 8 above, and further in view of Polan et al. (U.S. 2004/0068565 A1).**
18. As to claims 6, 13 and 18, Caswell and Mayer do not explicitly teach the abstract plan is represented in a predetermined form using a web services composition

language. However, Charisius teaches wherein the abstract plan is represented in a predetermined form using a web services composition language (paragraph 6).

19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Caswell and Mayer by incorporating the teaching of abstract plan is represented in a predetermined form using a web services composition language as taught by Polan because this would enables fast and efficient when construct a model by using web service composition.

### ***Response to the argument***

20. Applicant's arguments filed 12/15/08 for claims 1-18 have been considered but are moot in view of the new ground(s) rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMQUY TRUONG whose telephone number is (571)272-3773. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (703)305-9678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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/Meng-Ai An/

Supervisory Patent Examiner, Art Unit 2195

Camquy Truong

September 18, 2008